

§ 58-7-170. Diversification.

(a) Every insurer must maintain an amount equal to its entire policyholder-related liabilities and the minimum capital and surplus required to be maintained by the insurer under this Chapter invested in coin or currency of the United States and in investments authorized under this Chapter, other than the investments authorized under G.S. 58-7-183 or G.S. 58-7-187, except G.S. 58-7-187(b)(1).

(b) Investments eligible under subsection (a), except investments acquired under G.S. 58-7-183, are subject to the following limitations, other limitations of this section, and any other limitations that are expressly provided for in any provision under which the investment is authorized:

- (1) The cost of investments made by insurers in stock authorized by G.S. 58-7-173 shall not exceed twenty-five percent (25%) of the insurer's admitted assets, provided that no more than twenty percent (20%) of the insurer's admitted assets shall be invested in common stock; and the cost of an investment in stock of any one corporation shall not exceed three percent (3%) of the insurer's admitted assets. Notwithstanding any other provision in this Chapter, the financial statement carrying value of all stock investments shall be used for the purpose of determining the asset value against which the percentage limitations are to be applied. Investments in the voting securities of a depository institution, or any company that controls a depository institution, shall not exceed five percent (5%) of the insurer's admitted assets. As used in this subdivision, "depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813; and includes any foreign bank that maintains a branch, an agency, or a commercial lending company in the United States.
- (2) The cost of Canadian investments authorized by G.S. 58-7-173 shall not exceed forty percent (40%) of the insurer's admitted assets in the aggregate, provided that no more than twenty-five percent (25%) of the insurer's admitted assets shall be invested in Canadian investments authorized by G.S. 58-7-173(11).

(c) The cost of investments made by an insurer in mortgage loans authorized by G.S. 58-7-179 with any one person, or in mortgage-backed securities authorized by G.S. 58-7-173(1), (2), (8), or (17), and backed by a single collateral pool, shall not exceed three percent (3%) of the insurer's admitted assets. An insurer shall not invest in additional mortgage loans or mortgage-backed securities without the Commissioner's consent if the admitted value of all those investments held by the insurer exceeds an aggregate of sixty percent (60%) of the admitted assets of the insurer. Within the aggregate sixty percent (60%) limitation, the admitted value of all mortgage-backed securities permitted by G.S. 58-7-173(17) shall not exceed thirty-five percent (35%) of the admitted assets of the insurer. The admitted value of other mortgage loans permitted by G.S. 58-7-179 shall not exceed forty percent (40%) of the admitted assets of the insurer. Mortgage-backed securities authorized by G.S. 58-7-173(1), (2), or (8) shall only be subject to the single collateral pool limitation and the sixty percent (60%) aggregate limitation. No later than January 31, 1999, an insurer that has mortgage investments that exceed the limitations specified in this subsection shall submit to the Commissioner a plan to bring the amount of mortgage investments into compliance with the specified limitations by January 1, 2004.

(d) Without the Commissioner's prior written approval, the cost of investments permitted under G.S. 58-7-173 and G.S. 58-7-178, and that are classified as medium to lower quality obligations shall be limited to:

- (1) No more than twenty percent (20%) of an insurer's admitted assets;

- (2) No more than ten percent (10%) of an insurer's admitted assets in obligations designated a 4, 5, or 6 in accordance with the Purposes and Procedures Manual of the NAIC Securities Valuation Office;
- (3) No more than three percent (3%) of an insurer's admitted assets in obligations designated a 5 or 6 in accordance with the Purposes and Procedures Manual of the NAIC Securities Valuation Office; and
- (4) No more than one percent (1%) of an insurer's admitted assets in obligations designated a 6 in accordance with the Purposes and Procedures Manual of the NAIC Securities Valuation Office.

(5),(6) Repealed by Session Laws 1993, c. 452, s. 11.

(e) As used in subsections (d), (f), (g), and (h) of this section, "medium to lower quality obligations" means obligations designated a 3, 4, 5, or 6 in accordance with the Purposes and Procedures Manual of the NAIC Securities Valuation Office.

(f) Each insurer shall possess and maintain adequate documentation to establish that its investments in medium to lower quality obligations do not exceed the limitations under subsection (d) of this section.

(g), (h) Repealed by Session Laws 2005-215, s. 7, effective July 20, 2005.

(i) Failure to obtain the Commissioner's prior written approval shall result in any investments in excess of those permitted by subsection (d) of this section not being allowed as an asset of the insurer.

(j) The Commissioner may limit the extent of an insurer's deposits with any financial institution if the Commissioner determines that the financial solvency of the insurer is threatened by a deposit in excess of insured limits.

(k) The provisions of this section supersede any inconsistent provision of section 106 of the Secondary Mortgage Market Enhancement Act of 1984, 15 U.S.C. § 77r-1, to the extent permitted by that Act. (1991, c. 681, s. 29; 1993, c. 452, ss. 10-13; c. 504, s. 43; 1993 (Reg. Sess., 1994), c. 678, s. 12; 1998-212, s. 26B(i); 2001-215, s. 3; 2001-223, ss. 8.1, 8.2; 2005-215, s. 7; 2022-46, s. 2(a).)